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CENTRAL FAX CENTER**JUN 27 2006****FAX TRANSMISSION****DATE:** June 27, 2006**PTO IDENTIFIER:** Application Number 09/881,536-Conf. #8152
Patent Number**Inventor:** Jack D. Patterson**MESSAGE TO:** US Patent and Trademark Office**FAX NUMBER:** (571) 273-8300**FROM:** RADER, FISHMAN & GRAUER PLLC

Michael B. Stewart

PHONE: (248) 594-0633**Attorney Dkt. #:** 65856-0032**PAGES (Including Cover Sheet):** 5**CONTENTS:** Petition for Revival of an Application for Patent (3 pages)
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RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan 48304
Telephone: (248) 584-0600 Facsimile: (248) 594-0610

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Application No. (if known): 09/881,536

Attorney Docket No.: 65855-0032

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Petition for Revival of an Application for Patent (3 pages)

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JUN 27 2006

Docket No.: 65856-0032
(PATENT)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jack D. Patterson

Application No.: 09/881,536

Confirmation No.: 8152

Filed: June 14, 2001

Art Unit: 2831

For: CONNECTIONLESS DATA LINK ASSEMBLY Examiner: J. J. Lee

**PETITION FOR REVIVAL OF AN APPLICATION FOR
PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a petition seeking revival of the above-identified application for unavoidable abandonment. Rather than proceeding as provided for in the MPEP once a decision was rendered by the Board of Patent Appeals and Interferences on January 24, 2006, reversing the Examiner's rejection as to two dependent claims, a Notice of Abandonment was issued by mistake. The facts and law supporting the petition are as follows:

1. On January 24, 2006, the Board of Patent Appeals and Interferences issued an opinion with respect to the above-identified matter. Significantly, as stated at page 9 of the opinion: "In view of the foregoing, the decision of the Examiner rejecting claims 1, 3-7 and 9-12 under 35 U.S.C. § 103 is affirmed but is reversed with respect to claims 2 and 8." (Emphasis added). Thus, Applicant had an indication of allowable subject matter with respect to the two dependent claims. Claim 2 depends from independent claim 1 while claim

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8 depends from independent claim 7.

2. MPEP § 1214.06(b) provides as follows under section I.(B):

(B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, ** after expiration of the period for further appeal, >the examiner< should proceed in one of two ways:

(1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or

(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

3. Rather than proceeding as indicated, the Examiner issued a Notice of Abandonment on April 25, 2006.

4. On May 25, 2006, the undersigned talked with the Examiner responsible for this application, Jinhee J. Lee. She asked us to talk with her Supervisory Patent Examiner, Dean A. Reichard, which we ultimately did. We reviewed the MPEP provision with Mr. Reichard. He stated that it was not possible to withdraw the Notice of Abandonment, and recommended that this petition be filed instead.

It is respectfully submitted that since the decision of the Examiner with respect to two dependent claims was reversed by the Board of Patent Appeals and Interferences, the Examiner should have either converted the dependent claims into independent form by examiner's amendment or set a 1-month time limit for appellant to rewrite the dependent claim(s) in independent form. It was improper to simply send out a Notice of Abandonment. Thus, withdrawal of the Notice of Abandonment is respectfully requested.

To facilitate final allowance of the application, it is respectfully proposed that the

limitations of dependent claim 2 be combined into independent claim 1 while the limitations of dependent claim 8 are combined into independent claim 7 by examiner's amendment.

A petition fee in the amount of \$500.00 is hereby authorized to be charged to our Deposit Account No. 18-0013, under Order No. 65856-0032 from which the undersigned is authorized to draw.

Respectfully submitted,



Michael B. Stewart, Reg. No. 36,018
Rader, Fishman & Grauer PLLC
39533 Woodward Ave., Suite 140
Bloomfield Hills, Michigan 48304
Attorney for Applicants

Date: June 27, 2006

Customer No. 010291

Telephone No. (248) 594-0633

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